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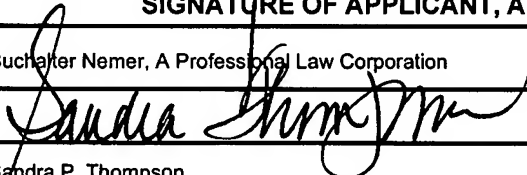
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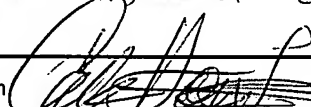
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TRANSMITTAL FORM (to be used for all correspondence after initial filing) MAY 14 2007 RECEIVED	Application Number	10/716,584	
	Filing Date	November 18, 2003	
	First Named Inventor	James A. Kweeder	
	Art Unit	1714	
	Examiner Name	Kriellion A. Sanders	
Total Number of Pages in This Submission	33	Attorney Docket Number	H0004407.35624 - 4690(H9910-0105)

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
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Firm Name	Buchalter Nemer, A Professional Law Corporation	
Signature		
Printed name	Sandra P. Thompson	
Date	May 14, 2007	Reg. No. 46,264

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I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: <u>AS Express Mail, Label # EQ950841334 US</u>			
Signature			
Typed or printed name	Collene Houston	Date	May 14, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005 MAY 14 2007		Complete if Known	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Application Number	10/716,584
TOTAL AMOUNT OF PAYMENT (\$) 500.00		Filing Date	November 18, 2003
		First Named Inventor	James A. Kweeder
		Examiner Name	Kriellion A. Sanders
		Art Unit	1714
		Attorney Docket No.	H0004407.35624 - 4690

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 500977 Deposit Account Name: Buchalter Nemer

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
Total Claims	Extra Claims	Fee (\$)
_____ - 20 or HP = _____	x _____	= _____
HP = highest number of total claims paid for, if greater than 20.		
Indep. Claims	Extra Claims	Fee (\$)
_____ - 3 or HP = _____	x _____	= _____
HP = highest number of independent claims paid for, if greater than 3.		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____	/ 50 = _____	(round up to a whole number) x _____	= _____	

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief

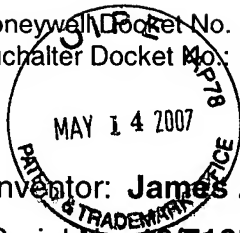
Fees Paid (\$)

500.00

SUBMITTED BY		
Signature	Registration No. (Attorney/Agent) 46,264	Telephone 949-224-6282
Name (Print/Type) Sandra P. Thompson		Date May 14, 2007

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Inventor: **James A. Kweeder**

Serial No: **10/716584**

Filed: **November 18, 2003**

For: **PRE-FIBER GEL
COMPOSITIONS AND
MATERIALS, METHODS OF
MANUFACTURE AND USES
THEREOF**

Examiner: **Kriellion A. Sanders**

Art Unit: **1714**

**MAIL STOP APPEAL BRIEF – PATENTS
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APPELLANT'S BRIEF UNDER 37 CFR § 41.37

This brief follows the appellant's Notice of Appeal filed in this case on March 12, 2007. The deadline for the brief fell on May 12, 2007, which was a Saturday, and therefore, this brief is timely filed on Monday, May 14, 2007. The fees required under 37 CFR §1.17(f) are included with this brief.

This brief contains the following items under the headings in the order here indicated:

APPELLANTS BRIEF UNDER 37 CFR § 41.37

REAL PARTY IN INTEREST

RELATED APPEALS AND INTERFERENCES

STATUS OF THE CLAIMS

STATUS OF AMENDMENTS

SUMMARY OF CLAIMED SUBJECT MATTER

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

ARGUMENT

CLAIMS APPENDIX

EVIDENCE APPENDIX

RELATED PROCEEDINGS APPENDIX

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REAL PARTY IN INTEREST

The real party in interest is the assignee, Honeywell International Inc. (see Reel/Frame No. 014453/0073, Recorded on March 22, 2004)

RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences in this matter known to appellant.

STATUS OF THE CLAIMS

There are 28 claims in this case. Claims 1-28 are pending.

STATUS OF AMENDMENTS

There have been no amendments filed subsequent to final rejection in this matter.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The subject matter of the present application, including independent claims 1 and 13, is directed to pre-fiber gel materials and compositions, including products produced from those compositions.

A pre-fiber gel material (page 5, lines 8-18) is described in the application that includes: a) at least one amide-based and/or polyamide-based composition (Page 6, lines 16-26, page 7 and page 8, lines 1-10); and b) at least one lactam gelling agent, wherein the gel composition has sufficient viscosity and sufficient cohesiveness upon the mixing of the at least one amide-based or polyamide-based polymer and the at least one lactam gelling agent that the composition can be spun into a fiber (Page 8, lines 11-29, page 9, lines 1-10).

In addition, methods are provided in the present application that teach that the production of a pre-fiber gel composition, including: a) providing at least one amide-based compound (Page 6, lines 16-26, page 7 and page 8, lines 1-10, page 10, lines 19-29); b) providing at least one lactam gelling agent (Page 8, lines 11-29, page 9, lines 1-10, page 10, lines 19-29, and Example 1); and c) mixing the at least one amide-based polymer and the at least one lactam gelling agent such that there is sufficient viscosity and sufficient cohesiveness in the composition so that it can be spun into a fiber (page 5, lines 8-18, page 8, lines 28-29, page 9 and Example 2).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-10 and 13-24 are rejected under 35 USC §102(b) as being anticipated by GB-A-2274 109 ("T & N").

Claims 1-11, 13-25 and 27 are rejected under 35 USC §102(b) as being anticipated by US 5,047,459 ("Walde").

Claims 1-4, 11, 13-16, 22-25 and 27 are rejected under 35 USC §102(b) as being anticipated by US 4,745,143 ("Mason").

Claims 1, 2, 4-14, 16-24, 27 and 28 are rejected under 35 USC §102(b) as being anticipated by US 5223196 ("Shridharani").

Claims 1-24, 27 and 28 are rejected under 35 USC §103(a) as being unpatentable over British Patent No. 2274109 as applied to claims 1-10 and 13-24 in view of US 5223196 ("Shridharani").

ARGUMENT

ISSUE NO. 1 - §102(B) REJECTION OF CLAIMS 1-10 AND 13-24 BASED ON GB-A-2274 109

Claims 1-10 and 13-24 are rejected under 35 USC §102(b) as being anticipated by GB-A-2274 109 ("T & N"). The Applicant respectfully disagrees.

Claim 1 recites: "A pre-fiber gel composition, comprising: at least one amide-based polymer; and at least one lactam gelling agent, wherein **the gel composition** has sufficient viscosity and sufficient cohesiveness upon the mixing of the at least one amide-based polymer and the at least one lactam gelling agent that the composition can be spun into a fiber." (emphasis added)

Claim 13 recites: "A method of producing a pre-fiber gel composition, comprising: providing at least one amide-based compound; providing at least one lactam gelling agent; and mixing the at least one amide-based polymer and the at least one lactam gelling agent such that there is **sufficient viscosity and sufficient cohesiveness in the composition** so that it can be spun into a fiber." (emphasis added)

While the concept of gel compositions for forming fibers can be straightforward, successful implementation can be more difficult. The solvent-polymer system must achieve a gel that has sufficient solvation of the polymer molecules to manipulate the microstructure while still having sufficient melt strength to be processed into useful shapes. Once the article has been made, the solvent is typically removed to bring the polymer to its full properties. Solvent removal and recovery presents numerous cost and equipment issues to extract and dry the polymer and then recycle or otherwise dispose of the spent solvents. Industrial hygiene and environmental issues further complicate implementation. It is understandable why this technology has been limited to very high value materials like ballistic fibers.

For example, there is no recognized solvent system for gel processing of polyamide 6 (also known as nylon-6 or poly-caprolactam). Standard solvents like formic acid yield a solution far too low in viscosity for processing. Further, if nylon-6 gel processed products are to compete in applications other than high-cost ballistic fibers, a suitable solvent that is low-cost to implement is required. One candidate for gel processing nylon-6 products that has not been investigated is the epsilon-caprolactam monomer used to make nylon-6.

Caprolactam and nylon compounds have each been individually polymerized with the same compounds (i.e. caprolactam/caprolactam or nylon/nylon) by anionic polymerization in a twin-screw extruder and then tested for residual monomer content and thermal/mechanical properties. In both methods, however, the polymerization process used was not designed to and did not result in a pre-fiber gel composition that could be processed by any means (including extrusion), and there was no indication that the mechanical strength or thermal strength was improved by the single monomer/twin-screw extruder mixing process. (see Antec '93 Conference Proceedings, New Orleans, 9th-13th May 1993, Vol. 1, p. 470-473; and Antec '94 Conference Proceedings, San Francisco, CA, 1st-5th May 1994, Vol. 1, p. 116-22)

It was also known that caprolactam formed solutions with nylon-6, but these solutions took the form of residual, unpolymerized monomer found in the polymer. Typically nylon-6 resin is leached to remove this residual monomer. Deliberate addition of caprolactam for gel processing has not been previously considered. Gel processing and gel compositions are important because polymer parts have a practical limit in cross-section size due to the difficulty in forming such large cross-sections via melt processing. From a practical perspective, machines (extruders) to form polymer into shapes and sizes routinely available in metal simply do not exist. The other real limitation is that as melted polymer cools, significant shrinkage occurs. One can often find puckers on molded parts from shrink. To an extent, shrink can be compensated with clever mold design and tuning the molding process.

The formation of a pre-fiber gel composition and/or material allows for the control of the properties of the drawn fiber by allowing for more favorable orientation of the polymer molecules in the fiber. Controlling the molecule orientation can lead to increased tensile strength and overall fiber durability. Furthermore, at least part of the at least one gelling agent (such as a lactam gelling agent) can be removed and recovered from the spun fiber once formed. In addition, any unpolymerized monomers can be subsequently polymerized after further processing to create properties in the spun fiber that are difficult or impossible to achieve with conventional spun polymers. This polymerization technique is described in commonly owned US Provisional Application entitled "Pre-Composite and Composite Materials, Methods of Manufacture and Uses Thereof" (Serial No. not yet assigned) that has been filed concurrently and is incorporated herein in its entirety by reference.

In T & N, a molding composition that contains nylon and magnesium hydroxide has caprolactam added to it to reduce the formation of surface defects. There is absolutely no teaching in T & N that the caprolactam addition to the mixture of nylon and magnesium hydroxide results in the formation of a gel composition. The Examiner is again overbroadening the applicability of the T&N patent to this application. In T&N, the applicants mix nylon, caprolactam, water, calcium stearate, glass fibers (as a reinforcement) and magnesium hydroxide. Note that in both examples, over 50% magnesium hydroxide is added – which is a significant chemical component, as compared to nylon and caprolactam. Also, it is instructive to note the presence of glass fibers in the mixture. Then, please note that the components are heated to a temperature of 260°C while being screw extruded at a high RPM (250 RPM). Note that the materials and compositions produced in the present application are designed to be produced at or below normal processing temperatures (see page 3) – an option that is not available in the T&N reference. The inclusion of about 10% of glass fibers for reinforcement purposes in the T&N reference is also troubling, given that the

processing steps taken in the present application result in fibers and fiber products that are strengthened by the process and not by additional reinforcement additives.

Although the Examiner considers the fact that both references include the components of nylon and caprolactam in the final material – the Applicants believe it is unreasonable for the Examiner to consider them both implicitly identical given the large weight percent of other components in the T&N patent. Consider that the weight percent of all of the other components – other than the nylon and caprolactam – in the T&N patent outweigh the weight percent of nylon and caprolactam. Surely, the Examiner is considering that the large weight percent of these components must influence the chemical nature of the final material.

Formation of the gel composition is very important and central to the present application, because of all of the benefits of utilizing a gel composition mentioned herein. Fibers formed from these new gel compositions have superior strength and tensile properties because of the ability to spin the gel at high speeds, which suggests that nylon gel products can be manufactured with productivity comparable to melt processing. The excellent melt strength of the gels also allow the polymer to be highly shaped or drawn prior to solvent removal; or, only lightly processed, the caprolactam removed, and then post-processed to achieved the desired combination of properties.

T & N does not teach all of the claimed elements of the present application. “Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W. L. Gore & Assocs. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983) (citing *Soundscriber Corp. v. United States*, 360 F.2d 954, 148 USPQ 298, 301 (Ct. Cl.), *adopted*, 149 USPQ 640 (Ct. Cl. 1966)) Further, the prior art reference must disclose each element of the claimed invention **“arranged as in the claim”**. *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984)(citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). T & N does

not teach a combination of an amide and a lactam gelling agent that will form a gel composition, such as those described in the present application. Based on this argument, along with others such as that discussed above, T & N does not anticipate claims 1 and 13 of the present application because T & N is lacking and/or missing at least one specific feature or structural recitation found in the present application, and in claims 1 and 13. Claims 1 and 13 are therefore allowable as not being anticipated by T & N. Further, T & N does not anticipate claims 2-10 and 14-24 of the present application by virtue of their dependency on claims 1 and 13 respectively.

ISSUE NO. 2 - §102(B) REJECTION OF CLAIMS 1-11, 13-25 AND 27 BASED ON US 5047459

Claims 1-11, 13-25 and 27 are rejected under 35 USC §102(b) as being anticipated by US 5,047,459 ("Walde"). The Applicant respectfully disagrees.

Claim 1 recites: "A pre-fiber gel composition, comprising: at least one amide-based polymer; and at least one lactam gelling agent, wherein **the gel composition** has sufficient viscosity and sufficient cohesiveness upon the mixing of the at least one amide-based polymer and the at least one lactam gelling agent that the composition can be spun into a fiber." (emphasis added)

Claim 13 recites: "A method of producing a pre-fiber gel composition, comprising: providing at least one amide-based compound; providing at least one lactam gelling agent; and mixing the at least one amide-based polymer and the at least one lactam gelling agent such that there is **sufficient viscosity and sufficient cohesiveness in the composition** so that it can be spun into a fiber." (emphasis added)

While the concept of gel compositions for forming fibers can be straightforward, successful implementation can be more difficult. The solvent-polymer system must achieve a gel that has sufficient solvation of the polymer molecules to manipulate the microstructure while still having sufficient melt strength to be processed into useful shapes. Once the article has been made, the solvent is typically removed to bring the polymer to its full properties. Solvent removal and recovery presents numerous cost and equipment issues to extract and dry the polymer and then recycle or otherwise dispose of the spent solvents. Industrial hygiene and environmental issues further complicate implementation. It is understandable why this technology has been limited to very high value materials like ballistic fibers.

For example, there is no recognized solvent system for gel processing of polyamide 6 (also known as nylon-6 or poly-caprolactam). Standard solvents like formic acid yield a solution far too low in viscosity for processing. Further, if nylon-6 gel

processed products are to compete in applications other than high-cost ballistic fibers, a suitable solvent that is low-cost to implement is required. One candidate for gel processing nylon-6 products that has not been investigated is the epsilon-caprolactam monomer used to make nylon-6.

Caprolactam and nylon compounds have each been individually polymerized with the same compounds (i.e. caprolactam/caprolactam or nylon/nylon) by anionic polymerization in a twin-screw extruder and then tested for residual monomer content and thermal/mechanical properties. In both methods, however, the polymerization process used was not designed to and did not result in a pre-fiber gel composition that could be processed by any means (including extrusion), and there was no indication that the mechanical strength or thermal strength was improved by the single monomer/twin-screw extruder mixing process. (see Antec '93 Conference Proceedings, New Orleans, 9th-13th May 1993, Vol. 1, p. 470-473; and Antec '94 Conference Proceedings, San Francisco, CA, 1st-5th May 1994, Vol. 1, p. 116-22)

It was also known that caprolactam formed solutions with nylon-6, but these solutions took the form of residual, unpolymerized monomer found in the polymer. Typically nylon-6 resin is leached to remove this residual monomer. Deliberate addition of caprolactam for gel processing has not been previously considered. Gel processing and gel compositions are important because polymer parts have a practical limit in cross-section size due to the difficulty in forming such large cross-sections via melt processing. From a practical perspective, machines (extruders) to form polymer into shapes and sizes routinely available in metal simply do not exist. The other real limitation is that as melted polymer cools, significant shrinkage occurs. One can often find puckers on molded parts from shrink. To an extent, shrink can be compensated with clever mold design and tuning the molding process.

The formation of a pre-fiber gel composition and/or material allows for the control of the properties of the drawn fiber by allowing for more favorable orientation of the

polymer molecules in the fiber. Controlling the molecule orientation can lead to increased tensile strength and overall fiber durability. Furthermore, at least part of the at least one gelling agent (such as a lactam gelling agent) can be removed and recovered from the spun fiber once formed. In addition, any unpolymerized monomers can be subsequently polymerized after further processing to create properties in the spun fiber that are difficult or impossible to achieve with conventional spun polymers. This polymerization technique is described in commonly owned US Provisional Application entitled "Pre-Composite and Composite Materials, Methods of Manufacture and Uses Thereof" (Serial No. not yet assigned) that has been filed concurrently and is incorporated herein in its entirety by reference.

In Walde, thermoplastic materials and thermoplastic polycondensation products are described that contain flame retardants and lactams mixed with adducted melamines. The products are then melt processed and the solid formations are ground into powders. There is absolutely no teaching in Walde that the lactam addition to the thermoplastic materials or thermoplastic condensation products results in the formation of a gel composition. The Examiner is again overbroadening the applicability of the Walde patent to this application. In Walde, the applicants mix polyamides, polyesters and flame retardants together to form a mixture which is extruded to form various fibers. The Examiner should point out how the addition of a lactam gelling agent will result in gelling the polyesters, along with the polyamides and flame retardants. Although the Examiner considers the fact that both references include the components of polyamide and caprolactam in the final material – the Applicants believe it is unreasonable for the Examiner to consider them both implicitly identical given the large weight percent of other components in the Walde patent. Consider that the weight percent of all of the other components – other than the nylon and caprolactam – in the Walde patent can outweigh the weight percent of polyamide and caprolactam. Surely, the Examiner is considering that the large weight percent of these components must influence the chemical nature of the final material. In addition, the Walde patent is similar to the T&N

patent – in that both state that reinforcing additives can be added to strengthen the fibers and materials produced from their processes. Again, this point is one that shouldn't be overlooked in the present application – and that is that the current process can result in stronger fibers and fiber materials without the addition of additional reinforcing materials.

Formation of the gel composition is very important and central to the present application, because of all of the benefits of utilizing a gel composition mentioned herein. Fibers formed from these new gel compositions have superior strength and tensile properties because of the ability to spin the gel at high speeds, which suggests that nylon gel products can be manufactured with productivity comparable to melt processing. The excellent melt strength of the gels also allow the polymer to be highly shaped or drawn prior to solvent removal; or, only lightly processed, the caprolactam removed, and then post-processed to achieved the desired combination of properties.

Walde does not teach all of the claimed elements of the present application. "Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Assocs. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983) (citing *Soundsciber Corp. v. United States*, 360 F.2d 954, 148 USPQ 298, 301 (Ct. Cl.), *adopted*, 149 USPQ 640 (Ct. Cl. 1966)) Further, the prior art reference must disclose each element of the claimed invention **"arranged as in the claim"**. *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984)(citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). Walde does not teach a combination of an amide and a lactam gelling agent that will form a gel composition, such as those described in the present application. Based on this argument, along with others such as that discussed above, Walde does not anticipate claims 1 and 13 of the present application because Walde is lacking and/or missing at least one specific feature or structural recitation found in the present application, and in

claims 1 and 13. Claims 1 and 13 are therefore allowable as not being anticipated by Walde. Further, Walde does not anticipate claims 2-11, 14, 25 and 27 of the present application by virtue of their dependency on claims 1 and 13 respectively.

**ISSUE NO. 3 - §102(B) REJECTION OF CLAIMS 1-4, 11, 13-16, 22-25 AND 27 BASED ON US
4745143**

Claims 1-4, 11, 13-16, 22-25 and 27 are rejected under 35 USC §102(b) as being anticipated by US 4,745,143 ("Mason"). The Applicant respectfully disagrees.

Claim 1 recites: "A pre-fiber gel composition, comprising: at least one amide-based polymer; and at least one lactam gelling agent, wherein the gel composition has sufficient viscosity and sufficient cohesiveness upon the mixing of the at least one amide-based polymer and the at least one lactam gelling agent that the composition can be spun into a fiber." (emphasis added)

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While the concept of gel compositions for forming fibers can be straightforward, successful implementation can be more difficult. The solvent-polymer system must achieve a gel that has sufficient solvation of the polymer molecules to manipulate the microstructure while still having sufficient melt strength to be processed into useful shapes. Once the article has been made, the solvent is typically removed to bring the polymer to its full properties. Solvent removal and recovery presents numerous cost and equipment issues to extract and dry the polymer and then recycle or otherwise dispose of the spent solvents. Industrial hygiene and environmental issues further complicate implementation. It is understandable why this technology has been limited to very high value materials like ballistic fibers.

For example, there is no recognized solvent system for gel processing of polyamide 6 (also known as nylon-6 or poly-caprolactam). Standard solvents like formic acid yield a solution far too low in viscosity for processing. Further, if nylon-6 gel processed products are to compete in applications other than high-cost ballistic fibers, a suitable solvent that is low-cost to implement is required. One candidate for gel processing nylon-6 products that has not been investigated is the epsilon-caprolactam monomer used to make nylon-6.

Caprolactam and nylon compounds have each been individually polymerized with the same compounds (i.e. caprolactam/caprolactam or nylon/nylon) by anionic polymerization in a twin-screw extruder and then tested for residual monomer content and thermal/mechanical properties. In both methods, however, the polymerization process used was not designed to and did not result in a pre-fiber gel composition that could be processed by any means (including extrusion), and there was no indication that the mechanical strength or thermal strength was improved by the single monomer/twin-screw extruder mixing process. (see Antec '93 Conference Proceedings, New Orleans, 9th-13th May 1993, Vol. 1, p. 470-473; and Antec '94 Conference Proceedings, San Francisco, CA, 1st-5th May 1994, Vol. 1, p. 116-22)

It was also known that caprolactam formed solutions with nylon-6, but these solutions took the form of residual, unpolymerized monomer found in the polymer. Typically nylon-6 resin is leached to remove this residual monomer. Deliberate addition of caprolactam for gel processing has not been previously considered. Gel processing and gel compositions are important because polymer parts have a practical limit in cross-section size due to the difficulty in forming such large cross-sections via melt processing. From a practical perspective, machines (extruders) to form polymer into shapes and sizes routinely available in metal simply do not exist. The other real limitation is that as melted polymer cools, significant shrinkage occurs. One can often find puckers on molded parts from shrink. To an extent, shrink can be compensated with clever mold design and tuning the molding process.

The formation of a pre-fiber gel composition and/or material allows for the control of the properties of the drawn fiber by allowing for more favorable orientation of the polymer molecules in the fiber. Controlling the molecule orientation can lead to increased tensile strength and overall fiber durability. Furthermore, at least part of the at least one gelling agent (such as a lactam gelling agent) can be removed and recovered from the spun fiber once formed. In addition, any unpolymerized monomers can be subsequently polymerized after further processing to create properties in the spun fiber that are difficult or impossible to achieve with conventional spun polymers. This polymerization technique is described in commonly owned US Provisional Application entitled "Pre-Composite and Composite Materials, Methods of Manufacture and Uses Thereof" (Serial No. not yet assigned) that has been filed concurrently and is incorporated herein in its entirety by reference.

In Mason, plasticizers are added to polyamides to improve flexibility of the polyamide. There is absolutely no teaching in Mason that the plasticizer addition to the polyamides results in the formation of a gel composition. As a matter of fact, in Column 4, lines 48-52, it is stated that **the plasticizer can leach out of the polyamide leaving voids behind that can be filled with the salt compositions that are later added.** This description indicates that there cannot be a gel composition formed, because a gel composition would not leach the plasticizer and leave behind voids.

Formation of the gel composition is very important and central to the present application, because of all of the benefits of utilizing a gel composition mentioned herein. Fibers formed from these new gel compositions have superior strength and tensile properties because of the ability to spin the gel at high speeds, which suggests that nylon gel products can be manufactured with productivity comparable to melt processing. The excellent melt strength of the gels also allow the polymer to be highly shaped or drawn prior to solvent removal; or, only lightly processed, the caprolactam removed, and then post-processed to achieved the desired combination of properties.

Mason does not teach all of the claimed elements of the present application. “Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W. L. Gore & Assocs. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983) (citing *Soundsciber Corp. v. United States*, 360 F.2d 954, 148 USPQ 298, 301 (Ct. Cl.), *adopted*, 149 USPQ 640 (Ct. Cl. 1966)) Further, the prior art reference must disclose each element of the claimed invention “arranged as in the claim”. *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984)(citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). Mason does not teach a combination of an amide and a lactam gelling agent that will form a gel composition, such as those described in the present application. Based on this argument, along with others such as that discussed above, Mason does not anticipate claims 1 and 13 of the present application because Mason is lacking and/or missing at least one specific feature or structural recitation found in the present application, and in claims 1 and 13. Claims 1 and 13 are therefore allowable as not being anticipated by Mason. Further, Mason does not anticipate claims 2-4, 11, 14-16, 22-25 and 27 of the present application by virtue of their dependency on claims 1 and 13 respectively.

ISSUE NO. 4 - §102(B) REJECTION OF CLAIMS 1, 2, 4-14, 16-24, 27 AND 28 BASED ON US 5223196

Claims 1, 2, 4-14, 16-24, 27 and 28 are rejected under 35 USC §102(b) as being anticipated by US 5223196 ("Shridharani"). The Applicant respectfully disagrees.

Claim 1 recites: "A pre-fiber gel composition, comprising: at least one amide-based polymer; and at least one lactam gelling agent, wherein the gel composition has sufficient viscosity and sufficient cohesiveness upon the mixing of the at least one amide-based polymer and the at least one lactam gelling agent that the composition can be spun into a fiber." (emphasis added)

Claim 13 recites: "A method of producing a pre-fiber gel composition, comprising: providing at least one amide-based compound; providing at least one lactam gelling agent; and mixing the at least one amide-based polymer and the at least one lactam gelling agent such that there is sufficient viscosity and sufficient cohesiveness in the composition so that it can be spun into a fiber." (emphasis added)

While the concept of gel compositions for forming fibers can be straightforward, successful implementation can be more difficult. The solvent-polymer system must achieve a gel that has sufficient solvation of the polymer molecules to manipulate the microstructure while still having sufficient melt strength to be processed into useful shapes. Once the article has been made, the solvent is typically removed to bring the polymer to its full properties. Solvent removal and recovery presents numerous cost and equipment issues to extract and dry the polymer and then recycle or otherwise dispose of the spent solvents. Industrial hygiene and environmental issues further complicate implementation. It is understandable why this technology has been limited to very high value materials like ballistic fibers.

For example, there is no recognized solvent system for gel processing of polyamide 6 (also known as nylon-6 or poly-caprolactam). Standard solvents like formic acid yield a solution far too low in viscosity for processing. Further, if nylon-6 gel processed products are to compete in applications other than high-cost ballistic fibers, a suitable solvent that is low-cost to implement is required. One candidate for gel processing nylon-6 products that has not been investigated is the epsilon-caprolactam monomer used to make nylon-6.

Caprolactam and nylon compounds have each been individually polymerized with the same compounds (i.e. caprolactam/caprolactam or nylon/nylon) by anionic polymerization in a twin-screw extruder and then tested for residual monomer content and thermal/mechanical properties. In both methods, however, the polymerization process used was not designed to and did not result in a pre-fiber gel composition that could be processed by any means (including extrusion), and there was no indication that the mechanical strength or thermal strength was improved by the single monomer/twin-screw extruder mixing process. (see Antec '93 Conference Proceedings, New Orleans, 9th-13th May 1993, Vol. 1, p. 470-473; and Antec '94 Conference Proceedings, San Francisco, CA, 1st-5th May 1994, Vol. 1, p. 116-22)

It was also known that caprolactam formed solutions with nylon-6, but these solutions took the form of residual, unpolymerized monomer found in the polymer. Typically nylon-6 resin is leached to remove this residual monomer. Deliberate addition of caprolactam for gel processing has not been previously considered. Gel processing and gel compositions are important because polymer parts have a practical limit in cross-section size due to the difficulty in forming such large cross-sections via melt processing. From a practical perspective, machines (extruders) to form polymer into shapes and sizes routinely available in metal simply do not exist. The other real limitation is that as melted polymer cools, significant shrinkage occurs. One can often find puckers on molded parts from shrink. To an extent, shrink can be compensated with clever mold design and tuning the molding process.

The formation of a pre-fiber gel composition and/or material allows for the control of the properties of the drawn fiber by allowing for more favorable orientation of the polymer molecules in the fiber. Controlling the molecule orientation can lead to increased tensile strength and overall fiber durability. Furthermore, at least part of the at least one gelling agent (such as a lactam gelling agent) can be removed and recovered from the spun fiber once formed. In addition, any unpolymerized monomers can be subsequently polymerized after further processing to create properties in the spun fiber that are difficult or impossible to achieve with conventional spun polymers. This polymerization technique is described in commonly owned US Provisional Application entitled "Pre-Composite and Composite Materials, Methods of Manufacture and Uses Thereof" (Serial No. not yet assigned) that has been filed concurrently and is incorporated herein in its entirety by reference.

In Shridharani, a pigmented hexamethylene adipamide fiber is melt-spun from a melt blend of a polymer and a colored pigment. The Background section of the present application clearly points out that melt processing is undesirable and that the compositions contemplated in the current application **do not need to be melt processed because of the formation of a gel composition**. The disclosure of the present application makes it very clear that formation of the gel composition and gel processing is an alternative to melt blending and melt spinning. Therefore, Shridharani provides the conventional method of processing these types of materials.

Formation of the gel composition is very important and central to the present application, because of all of the benefits of utilizing a gel composition mentioned herein. Fibers formed from these new gel compositions have superior strength and tensile properties because of the ability to spin the gel at high speeds, which suggests that nylon gel products can be manufactured with productivity comparable to melt processing. The excellent melt strength of the gels also allow the polymer to be highly shaped or drawn prior to solvent removal; or, only lightly processed, the caprolactam removed, and then post-processed to achieved the desired combination of properties.

Shridharani does not teach all of the claimed elements of the present application. “Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W. L. Gore & Assocs. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983) (citing *Soundsciber Corp. v. United States*, 360 F.2d 954, 148 USPQ 298, 301 (Ct. Cl.), *adopted*, 149 USPQ 640 (Ct. Cl. 1966)) Further, the prior art reference must disclose each element of the claimed invention “arranged as in the claim”. *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984)(citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). Shridharani does not teach a combination of an amide and a lactam gelling agent that will form a gel composition, such as those described in the present application and in addition, does not teach gel processing of the materials. Based on this argument, along with others such as that discussed above, Shridharani does not anticipate claims 1 and 13 of the present application because Shridharani is lacking and/or missing at least one specific feature or structural recitation found in the present application, and in claims 1 and 13. Claims 1 and 13 are therefore allowable as not being anticipated by Shridharani. Further, Shridharani does not anticipate claims 2, 4-12, 14, 16-24, 27 and 28 of the present application by virtue of their dependency on claims 1 and 13 respectively.

**ISSUE NO. 5 - §103(A) REJECTION OF CLAIMS 1-24, 27 AND 28 BASED ON BRITISH PATENT
No.: 2274109, AS APPLIED TO CLAIMS 1-10 AND 13-24, IN VIEW OF US 5223196**

Claims 1-24, 27 and 28 are rejected under 35 USC §103(a) as being unpatentable over British Patent No. 2274109 as applied to claims 1-10 and 13-24 in view of US 5223196 ("Shridharani"). The Applicant respectfully disagrees.

Claim 1 recites: "A pre-fiber gel composition, comprising: at least one amide-based polymer; and at least one lactam gelling agent, wherein the gel composition has sufficient viscosity and sufficient cohesiveness upon the mixing of the at least one amide-based polymer and the at least one lactam gelling agent that the composition can be spun into a fiber." (emphasis added)

Claim 13 recites: "A method of producing a pre-fiber gel composition, comprising: providing at least one amide-based compound; providing at least one lactam gelling agent; and mixing the at least one amide-based polymer and the at least one lactam gelling agent such that there is sufficient viscosity and sufficient cohesiveness in the composition so that it can be spun into a fiber." (emphasis added)

While the concept of gel compositions for forming fibers can be straightforward, successful implementation can be more difficult. The solvent-polymer system must achieve a gel that has sufficient solvation of the polymer molecules to manipulate the microstructure while still having sufficient melt strength to be processed into useful shapes. Once the article has been made, the solvent is typically removed to bring the polymer to its full properties. Solvent removal and recovery presents numerous cost and equipment issues to extract and dry the polymer and then recycle or otherwise dispose of the spent solvents. Industrial hygiene and environmental issues further complicate implementation. It is understandable why this technology has been limited to very high value materials like ballistic fibers.

For example, there is no recognized solvent system for gel processing of polyamide 6 (also known as nylon-6 or poly-caprolactam). Standard solvents like formic acid yield a solution far too low in viscosity for processing. Further, if nylon-6 gel processed products are to compete in applications other than high-cost ballistic fibers, a suitable solvent that is low-cost to implement is required. One candidate for gel processing nylon-6 products that has not been investigated is the epsilon-caprolactam monomer used to make nylon-6.

Caprolactam and nylon compounds have each been individually polymerized with the same compounds (i.e. caprolactam/caprolactam or nylon/nylon) by anionic polymerization in a twin-screw extruder and then tested for residual monomer content and thermal/mechanical properties. In both methods, however, the polymerization process used was not designed to and did not result in a pre-fiber gel composition that could be processed by any means (including extrusion), and there was no indication that the mechanical strength or thermal strength was improved by the single monomer/twin-screw extruder mixing process. (see Antec '93 Conference Proceedings, New Orleans, 9th-13th May 1993, Vol. 1, p. 470-473; and Antec '94 Conference Proceedings, San Francisco, CA, 1st-5th May 1994, Vol. 1, p. 116-22)

It was also known that caprolactam formed solutions with nylon-6, but these solutions took the form of residual, unpolymerized monomer found in the polymer. Typically nylon-6 resin is leached to remove this residual monomer. Deliberate addition of caprolactam for gel processing has not been previously considered. Gel processing and gel compositions are important because polymer parts have a practical limit in cross-section size due to the difficulty in forming such large cross-sections via melt processing. From a practical perspective, machines (extruders) to form polymer into shapes and sizes routinely available in metal simply do not exist. The other real limitation is that as melted polymer cools, significant shrinkage occurs. One can often find puckers on molded parts from shrink. To an extent, shrink can be compensated with clever mold design and tuning the molding process.

The formation of a pre-fiber gel composition and/or material allows for the control of the properties of the drawn fiber by allowing for more favorable orientation of the polymer molecules in the fiber. Controlling the molecule orientation can lead to increased tensile strength and overall fiber durability. Furthermore, at least part of the at least one gelling agent (such as a lactam gelling agent) can be removed and recovered from the spun fiber once formed. In addition, any unpolymerized monomers can be subsequently polymerized after further processing to create properties in the spun fiber that are difficult or impossible to achieve with conventional spun polymers. This polymerization technique is described in commonly owned US Provisional Application entitled "Pre-Composite and Composite Materials, Methods of Manufacture and Uses Thereof" (Serial No. not yet assigned) that has been filed concurrently and is incorporated herein in its entirety by reference.

In T & N, a molding composition that contains nylon and magnesium hydroxide has caprolactam added to it to reduce the formation of surface defects. There is absolutely no teaching in T & N that the caprolactam addition to the mixture of nylon and magnesium hydroxide results in the formation of a gel composition. The Examiner is again overbroadening the applicability of the T&N patent to this application. In T&N, the applicants mix nylon, caprolactam, water, calcium stearate, glass fibers (as a reinforcement) and magnesium hydroxide. Note that in both examples, over 50% magnesium hydroxide is added – which is a significant chemical component, as compared to nylon and caprolactam. Also, it is instructive to note the presence of glass fibers in the mixture. Then, please note that the components are heated to a temperature of 260°C while being screw extruded at a high RPM (250 RPM). Note that the materials and compositions produced in the present application are designed to be produced at or below normal processing temperatures (see page 3) – an option that is not available in the T&N reference. The inclusion of about 10% of glass fibers for reinforcement purposes in the T&N reference is also troubling, given that the

processing steps taken in the present application result in fibers and fiber products that are strengthened by the process and not by additional reinforcement additives.

Although the Examiner considers the fact that both references include the components of nylon and caprolactam in the final material – the Applicants believe it is unreasonable for the Examiner to consider them both implicitly identical given the large weight percent of other components in the T&N patent. Consider that the weight percent of all of the other components – other than the nylon and caprolactam – in the T&N patent outweigh the weight percent of nylon and caprolactam. Surely, the Examiner is considering that the large weight percent of these components must influence the chemical nature of the final material.

In Shridharani, a pigmented hexamethylene adipamide fiber is melt-spun from a melt blend of a polymer and a colored pigment. The Background section of the present application clearly points out that melt processing is undesirable and that the compositions contemplated in the current application *do not need to be melt processed because of the formation of a gel composition*. The disclosure of the present application makes it very clear that formation of the gel composition and gel processing is an alternative to melt blending and melt spinning. Therefore, Shridharani provides the conventional method of processing these types of materials.

The combination of T&N with Shridharani does not cure the fact that neither reference renders the current claims as obvious and unpatentable. Neither reference discloses a gel composition or gel processing of the materials, and therefore, one of ordinary skill in the art of fiber processing and manufacturing will not read either reference alone or in combination and be motivated to produce the materials and fibers disclosed in the present application.

Formation of the gel composition is very important and central to the present application, because of all of the benefits of utilizing a gel composition mentioned herein. Fibers formed from these new gel compositions have superior strength and

tensile properties because of the ability to spin the gel at high speeds, which suggests that nylon gel products can be manufactured with productivity comparable to melt processing. The excellent melt strength of the gels also allow the polymer to be highly shaped or drawn prior to solvent removal; or, only lightly processed, the caprolactam removed, and then post-processed to achieved the desired combination of properties.

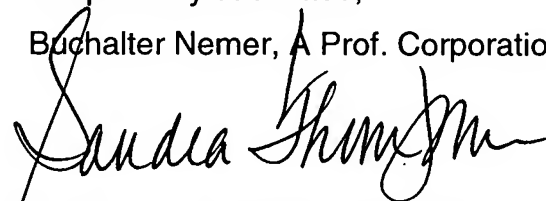
Based on this argument, along with others such as that discussed above, GB 2274109 and Shridharani do not render as unpatentable 1 and 13 of the present application because neither reference, alone or in combination with the other reference, teaches, motivates or suggests to one of ordinary skill in the art to produce the gel compositions and materials disclosed in the present application. Claims 1 and 13 are therefore allowable as not being unpatentable over GB 2274109 in view of Shridharani.

Further, neither reference, alone or in combination with the other reference, renders claims 2-12, 14-24, 27 and 28 of the present application unpatentable by virtue of their dependency on claims 1 and 13 respectively.

Dated: May 14, 2007

By:

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APPENDIX OF PENDING CLAIMS

1. (Original) A pre-fiber gel composition, comprising:
at least one amide-based polymer; and
at least one lactam gelling agent, wherein the gel composition has sufficient viscosity and sufficient cohesiveness upon the mixing of the at least one amide-based polymer and the at least one lactam gelling agent that the composition can be spun into a fiber.
2. (Original) The pre-fiber composition of claim 1, wherein the at least one amide-based polymer comprises a nylon compound.
3. (Original) The pre-fiber composition of claim 2, wherein the nylon compound comprises nylon-6.
4. (Original) The pre-fiber composition of claim 1, wherein the at least one lactam gelling agent comprises caprolactam.
5. (Original) The pre-fiber composition of claim 1, wherein the at least one lactam gelling agent comprises less than 50 weight percent of the composition.
6. (Original) The pre-fiber composition of claim 5, wherein the at least one lactam gelling agent comprises less than 40 weight percent of the composition.
7. (Original) The pre-fiber composition of claim 6, wherein the at least one lactam gelling agent comprises less than 30 weight percent of the composition.
8. (Original) The pre-fiber composition of claim 7, wherein the at least one lactam gelling agent comprises less than 20 weight percent of the composition.
9. (Original) The pre-fiber composition of claim 8, wherein the at least one lactam gelling agent comprises less than 10 weight percent of the composition.
10. (Original) The pre-fiber composition of claim 9, wherein the at least one lactam gelling agent comprises less than 5 weight percent of the composition.

11. (Original) A spun fiber comprising the gel composition of claim 1.
12. (Original) A carpet product comprising the spun fiber of claim 11.
13. (Original) A method of producing a pre-fiber gel composition, comprising:
providing at least one amide-based compound;
providing at least one lactam gelling agent; and
mixing the at least one amide-based polymer and the at least one lactam gelling agent such that there is sufficient viscosity and sufficient cohesiveness in the composition so that it can be spun into a fiber.
14. (Original) The method of claim 13, wherein the at least one amide-based polymer comprises a nylon compound.
15. (Original) The method of claim 14, wherein the nylon compound comprises nylon-6.
16. (Original) The method of claim 13, wherein the at least one lactam gelling agent comprises caprolactam.
17. (Original) The method of claim 13, wherein the at least one lactam gelling agent comprises less than 50 weight percent of the composition.
18. (Original) The method of claim 17, wherein the at least one lactam gelling agent comprises less than 40 weight percent of the composition.
19. (Original) The method of claim 18, wherein the at least one lactam gelling agent comprises less than 30 weight percent of the composition.
20. (Original) The method of claim 19, wherein the at least one lactam gelling agent comprises less than 20 weight percent of the composition.
21. (Original) The method of claim 20, wherein the at least one lactam gelling agent comprises less than 10 weight percent of the composition.

22. (Original) The method of claim 21, wherein the at least one lactam gelling agent comprises less than 5 weight percent of the composition.
23. (Original) The method of claim 13, wherein mixing comprises blending.
24. (Original) The method of claim 13, wherein mixing comprises extruding.
25. (Original) The method of claim 13, further comprising heating the composition.
26. (Original) The method of claim 13, further comprising removing at least part of the at least one lactam gelling agent after the mixing step.
27. (Original) A spun fiber formed using the method of claim 13.
28. (Original) A carpet product comprising the spun fiber of claim 23.

EVIDENCE APPENDIX

There is no additional evidence at this time of which the Applicant's are aware.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings at this time of which the Applicant's are aware.